

EXHIBIT “B”

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1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 CHARLES BRENDON and DANIEL  
4 CHECKMAN, Individually And On Behalf  
Of All Others Similarly Situated,

5 Plaintiffs

6 v.

7 ALLEGIANT TRAVEL COMPANY,  
8 MAURICE J. GALLAGHER, JR., SCOTT  
SHELDON, STEVEN E. HARFST, and  
9 JUDE I. BRICKER,

10 Defendants

Case No.: 2:18-cv-01758-APG-BNW

**Order and Final Judgment**

[ECF Nos. 74, 76]

11 On May 14, 2020, I conducted a telephonic hearing to determine: (1) whether the terms of  
12 the Stipulation and Agreement of Settlement dated December 27, 2019 (the “Settlement  
13 Stipulation”) are fair, reasonable and adequate for the settlement of all claims asserted by the  
14 Settlement Class against the Defendants (as defined in the Settlement Stipulation), including the  
15 release of the Released Claims against the Released Parties, and should be approved; (2) whether  
16 judgment should be entered dismissing this Action with prejudice; (3) whether to approve the  
17 proposed Plan of Allocation as a fair and reasonable method to allocate the Net Settlement Fund  
18 among Settlement Class Members; (4) whether and in what amount to award Lead Counsel fees  
19 and reimbursement of expenses; and (5) whether and in what amount to award Plaintiffs incentive  
fees.

20 It appears that the Notice of Pendency and Proposed Settlement of Class Action (“Notice”)  
21 substantially in the form I approved in my Order Granting Plaintiffs’ Motion for Preliminary  
22 Approval of Class Action Settlement, dated January 14, 2020 (“Preliminary Approval Order”) was  
23 mailed to all reasonably identifiable Settlement Class Members and posted to the website of the  
Claims Administrator, as I ordered.

1 It appears that the Summary Notice of Pendency and Proposed Class Action Settlement  
2 substantially in the form I approved in the Preliminary Approval Order was published as I ordered.

3 **THEREFORE, I HEREBY ORDER AS FOLLOWS:**

4 1. The Plaintiffs' motion for final approval (**ECF No. 74**) and motion for attorneys'  
5 fees (**ECF No. 76**) are granted.

6 2. This Order and Final Judgment incorporates by reference the definitions in the  
7 Settlement Stipulation, and all capitalized terms used herein shall have the same meanings as set  
8 forth therein.

9 3. The court has jurisdiction over the subject matter of the Action, Plaintiffs, all  
10 Settlement Class Members, and the Defendants.

11 4. The prerequisites for a class action under Rule 23(a) and (b)(3) of the Federal Rules  
12 of Civil Procedure have been satisfied in that:

13 (a) the number of Settlement Class Members is so numerous that joinder of all  
14 members thereof is impracticable;

15 (b) there are questions of law and fact common to the Settlement Class;

16 (c) Plaintiffs' claims are typical of the claims of the Settlement Class they seek to  
17 represent;

18 (d) Plaintiffs and Lead Counsel fairly and adequately represent the interests of the  
19 Settlement Class;

20 (e) questions of law and fact common to the members of the Settlement Class  
21 predominate over any questions affecting only individual members of the Settlement Class;  
22 and

23 (f) a class action is superior to other available methods for the fair and efficient  
adjudication of this Action, considering:

i. the interests of the Settlement Class Members in individually controlling  
the prosecution of the separate actions;

ii. the extent and nature of any litigation concerning the controversy already

1 commenced by Settlement Class Members;

2 iii. the desirability or undesirability of concentrating the litigation of these  
3 claims in this particular forum; and

4 iv. the difficulties likely to be encountered in the management of the class  
5 action.

6 The Settlement Class is being certified for settlement purposes only.

7 5. I hereby finally certify this as a class action for purposes of the Settlement under  
8 Federal Rules of Civil Procedure 23(a) and (b)(3), on behalf of all persons and entities that  
9 purchased or acquired the publicly traded securities of Allegiant between June 8, 2015 and May 9,  
10 2018, both dates inclusive (“Settlement Class Period”). Excluded from the Class are Defendants,  
11 Allegiant’s officers and directors, their immediate family members, and entities in which such  
12 excluded person hold a controlling interest. Also excluded are Settlement Class Members who  
13 file valid and timely requests for exclusion in accordance with this Preliminary Approval Order  
14 and persons with have no compensable damages. Plaintiffs are certified as the class representatives  
15 on behalf of the Settlement Class (“Class Representatives”) and Lead Counsel, The Rosen Law  
16 Firm, P.A., previously selected by Plaintiffs and appointed by me, are hereby appointed as Class  
17 Counsel for the Settlement Class (“Class Counsel”).

18 6. In accordance with my Preliminary Approval Order, I find that the forms and  
19 methods of notifying the Settlement Class of the Settlement and its terms and conditions met the  
20 requirements of due process, Federal Rule of Civil Procedure 23, and Section 21D(a)(7) of the  
21 Exchange Act, 15 U.S.C. § 78u-4(a)(7), as amended by the Private Securities Litigation Reform  
22 Act of 1995; constituted the best notice practicable under the circumstances; and constituted due  
23 and sufficient notice of these proceedings and the matters set forth herein, including the Settlement  
and Plan of Allocation, to all persons and entities entitled to such notice. No Settlement Class  
Member is relieved from the terms and conditions of the Settlement, including the releases  
provided for in the Settlement Stipulation, based upon the contention that such Settlement Class  
Member failed to receive actual or adequate notice. A full opportunity has been offered to the

1 Settlement Class Members to object to the proposed Settlement and to participate in the hearing  
2 thereon. The notice provisions of the Class Action Fairness Act, 28 U.S.C. § 1715, were fully  
3 discharged. Thus, all Settlement Class Members are bound by this Order and Final Judgment  
4 except those persons listed on Exhibit A to this Order and Final Judgment.

5 7. The Settlement is approved as fair, reasonable, and adequate under Federal Rule of  
6 Civil Procedure 23 and in the best interests of the Settlement Class. The Settlement is the result  
7 of good faith, arm's-length negotiations between experienced counsel representing the interests of  
8 the Class Representative, Settlement Class Members, and Defendants. The Parties are ordered to  
9 consummate the Settlement in accordance with the terms of the Settlement Stipulation.

10 8. The Action and all claims contained therein, as well as all of the Released Claims,  
11 are dismissed with prejudice as against each of the Defendants. The Parties are to bear their own  
12 costs, except as otherwise provided in the Settlement Stipulation.

13 9. The Releasing Parties, on behalf of themselves, their successors and assigns, and  
14 any other Person claiming through or on behalf of them (regardless of whether any such Releasing  
15 Party ever seeks or obtains by any means, including by submitting a Proof of Claim and Release  
16 Form, any disbursement from the Settlement Fund) are deemed to have fully released all Released  
17 Claims against the Released Parties. The Releasing Parties are deemed to have agreed not to sue  
18 the Released Parties regarding to any Released Claims in any forum and in any capacity. The  
19 Releasing Parties are permanently barred from commencing, prosecuting, assisting, or in any way  
20 participating in the commencement or prosecution of any proceeding, in any forum, asserting any  
21 Released Claim, in any capacity, against any of the Released Parties. This does not bar the  
22 Releasing Parties from bringing an action or claim to enforce the Settlement Stipulation or this  
23 Order and Final Judgment.

10. All Persons are permanently enjoined from commencing or prosecuting any claims,  
for contribution, indemnity, or otherwise against any of the Released Parties seeking as damages  
or otherwise the recovery of all or any part of any liability, judgment, or settlement which they pay  
or are obligated or to pay to the Settlement Class or any Settlement Class Member arising out of

1 or relating to such Persons' participation in any acts, facts, statements, or omissions that were or  
2 could have been alleged in the Action, whether arising under state, federal, or foreign law as  
3 claims, cross-claims, counterclaims, third-party claims, or otherwise, in any federal, state, or  
4 foreign court, or in any arbitration proceeding, administrative agency proceeding, tribunal, or any  
5 other proceeding or forum. Further, nothing in the Settlement Stipulation or this Order and Final  
6 Judgment shall bar or otherwise affect any claim for insurance coverage by any Defendant.

7 11. The proposed Plan of Allocation is a fair and reasonable method to allocate the Net  
8 Settlement Fund among Settlement Class Members, and Lead Counsel and the Claims  
9 Administrator are ordered to administer the Plan of Allocation in accordance with its terms and  
10 the terms of the Settlement Stipulation.

11 12. All Settling Parties and their counsel have complied with all requirements of  
12 Federal Rule of Civil Procedure 11 and the Private Securities Litigation Record Act of 1995.

13 13. Neither this Order and Final Judgment, the Settlement Stipulation (nor the  
14 Settlement contained therein), nor any of its terms, nor any of the negotiations, documents, or  
15 proceedings connected with them:

16 (a) is or may be deemed to be, or may be used as an admission or evidence of  
17 the validity or invalidity of any Released Claims, the truth or falsity of any fact  
18 alleged by Plaintiffs, the sufficiency or deficiency of any defense that has been or  
19 could have been asserted in the Action, or of any wrongdoing, liability, negligence  
20 or fault of the Defendants, the Released Parties, or any of them;

21 (b) is or may be deemed to be or may be used as an admission or evidence of  
22 any fault, misrepresentation, or omission with respect to any statement or written  
23 document attributed to, approved, or made by any of the Defendants or Released  
24 Parties in any civil, criminal, or administrative proceeding in any court,  
25 administrative agency, or other tribunal;

(c) is or may be deemed to be or shall be used, offered, or received against the  
Parties, Defendants or the Released Parties, or any of them, as an admission or

1 evidence of the validity or invalidity of the Released Claims, the infirmity or  
2 strength of any claim raised in the Action, the truth or falsity of any fact alleged by  
3 the Plaintiffs or the Settlement Class, or the availability or lack of availability of  
4 meritorious defenses to the claims raised in the Action;

5 (d) is or may be deemed to be or shall be construed as or received in evidence  
6 as an admission against Defendants, or the Released Parties, or any of them, that  
7 any of Plaintiffs' or Settlement Class Members' claims are with or without merit,  
8 that a litigation class should or should not be certified, that damages recoverable in  
9 the Action would have been greater or less than the Settlement Fund, or that the  
10 consideration to be given pursuant to the Settlement Stipulation represents an  
11 amount equal to, less than, or greater than the amount which could have been  
12 recovered after trial.

13 14. The Released Parties may file the Settlement Stipulation or this Order and Final  
14 Judgment in any action that is brought against them in order to support a defense or counterclaim  
15 based on res judicata, collateral estoppel, full faith and credit, release, good faith settlement,  
16 judgment bar or reduction, or any other theory of claim preclusion or issue preclusion. The Settling  
17 Parties may file the Settlement Stipulation or this Order and Final Judgment in any proceeding that  
18 becomes necessary to consummate or enforce the Settlement Stipulation, the Settlement, or this  
19 Order and Final Judgment.

20 15. Except as otherwise provided here or in the Settlement Stipulation, all funds held  
21 by the Escrow Agent shall be deemed to be *in custodia legis* and shall remain subject to the  
22 jurisdiction of the court until such time as the funds are distributed or returned under the Settlement  
23 Stipulation or further order of the Court.

16. Without affecting the finality of this Order and Judgment in any way, this court  
retains exclusive jurisdiction over the Settling Parties and the Settlement Class Members for all  
matters relating to the Action, including the administration, interpretation, or enforcement of the  
Settlement Stipulation and this Order and Final Judgment, and including any application for fees

1 and expenses incurred in connection with administering and distributing the Settlement proceeds  
2 to the Settlement Class Members.

3 17. Without further order of the Court, the Defendants and Class Representative may  
4 agree to reasonable extensions of time to carry out any provision of the Settlement Stipulation.

5 18. There is no just reason to delay entry of this Order and Final Judgment. I therefore  
6 direct immediate entry of judgment under Federal Rule of Civil Procedure 54(b).

7 19. The finality of this Order and Final Judgment shall not be affected, in any manner,  
8 by rulings that I make on Class Counsel's application for an award of attorneys' fees and expenses  
9 or an award to the Class Representative.

10 20. Class Counsel are hereby awarded 25% of the Settlement Amount in fees, which is  
11 fair and reasonable, and \$28,078.85 in reimbursement of expenses. Defendants shall have no  
12 responsibility for any allocations of attorneys' fees and expenses, and shall have no liability to  
13 Class Counsel or any other person in connection with the allocation of attorneys' fees and  
14 expenses. Class Representatives Charles Brendon and Daniel Checkman are awarded \$5,000 each,  
15 which is fair and reasonable.

16 21. In the event the Settlement is not consummated in accordance with the terms of the  
17 Settlement Stipulation, then the Settlement Stipulation and this Order and Final Judgment  
18 (including any amendment and except as provided in the Settlement Stipulation or by order of the  
19 court) shall be null and void, of no further force or effect, and without prejudice to any Settling  
20 Party, and may not be introduced as evidence or used in any proceeding by any Person against the  
21 Parties or the Released Parties, and each Party shall be restored to his, her, or its respective  
22 litigation positions as they existed prior to September 10, 2019, as stated in the Settlement  
23 Stipulation.

DATED this 14th day of May, 2020.



ANDREW P. GORDON  
UNITED STATES DISTRICT JUDGE



**EXHIBIT A**

**Parties Excluded From Settlement**

Eric Hollander